

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-1268.02 Esther van Mourik x4215

HOUSE BILL 20-1420

HOUSE SPONSORSHIP

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Woodrow

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A BILL FOR AN ACT

101 **CONCERNING THE ADJUSTMENT OF CERTAIN STATE TAX EXPENDITURES**
102 **IN ORDER TO ALLOCATE ADDITIONAL REVENUES TO THE STATE**
103 **EDUCATION FUND, AND, IN CONNECTION THEREWITH, MAKING**
104 **AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 1 of the bill specifies that the act shall be known as the "Tax Fairness Act".

Sections 2 and 3 require taxpayers to add to federal taxable

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 3rd Reading
June 11, 2020

HOUSE
Amended 2nd Reading
June 10, 2020

income:

- ! For income tax years ending on and after the enactment of the March 2020 "Coronavirus Aid, Relief, and Economic Security Act" (CARES Act), but before January 1, 2021, and for income tax years beginning on and after the enactment of the CARES Act, but before January 1, 2021, an amount equal to the difference between a taxpayer's net operating loss deduction as determined under federal law before the amendments made by section 2303 of the CARES Act and the taxpayer's net operating loss deduction as determined under federal law after the amendments made by section 2303 of the CARES Act;
- ! For income tax years ending on and after the enactment of the CARES Act, but before January 1, 2021, and for income tax years beginning on and after the enactment of the CARES Act, but before January 1, 2021, an amount equal to a taxpayer's excess business loss as determined under federal law without regard to the amendments made by section 2304 of the CARES Act, but with regard to the technical amendment made in that section of the CARES Act;
- ! For income tax years ending on and after the enactment of the CARES Act, but before January 1, 2021, and for income tax years beginning on and after the enactment of the CARES Act, but before January 1, 2021, an amount equal to the amount in excess of the limitation on business interest under federal law without regard to the amendments made by section 2306 of the CARES Act; and
- ! For income tax years commencing on or after January 1, 2021, an amount equal to the deduction for qualified business income for an individual taxpayer who files a single return and whose adjusted gross income is greater than \$75,000, and for an individual taxpayer who files a joint return and whose adjusted gross income is greater than \$150,000. This federal deduction may be claimed for income tax years commencing prior to January 1, 2026.

Section 4 limits the amount of net operating loss that a corporation may carry forward to \$400,000. This section also specifies that a corporation may add the amount of all net operating losses that a corporation is prohibited from subtracting, with interest, to the allowable net operating loss that is carried forward by the corporation.

Section 5 eliminates the state income tax modification for qualifying net capital gains for income tax years commencing on or after January 1, 2021.

Sections 6 and 7 repeal the exemption from the state sales and use

taxes for the sales, purchase, storage, use, or consumption of electricity, coal, gas, fuel oil, steam, coke, or nuclear fuel, for use in processing, manufacturing, mining, refining, irrigation, construction, telegraph, telephone, and radio communication, street and railroad transportation services, and all industrial uses, for filing periods on and after August 1, 2020, except not the state sales and use tax exemption for newsprint and printer's ink for use by publishers of newspapers and commercial printers.

Section 8 creates a sales and use tax refund, not to exceed \$1,000 per filing period, for filing periods on and after August 1, 2020, for all state sales and use tax paid by the taxpayer on the sale, storage, use, or consumption of electricity, coal, gas, fuel oil, steam, coke, or nuclear fuel, for use in processing, manufacturing, mining, refining, irrigation, construction, telegraph, telephone, and radio communication, and all industrial uses; except that the \$1,000 per filing period limit does not apply to the sale, storage, use, or consumption of:

- ! Diesel fuel purchased for off-road use;
- ! Electricity, coal, gas, fuel oil, steam, coke, or nuclear fuel purchased for agricultural purposes;
- ! Coal, gas, fuel oil, steam, coke, or nuclear fuel for use in generating electricity; and
- ! Electricity, coal, gas, fuel oil, steam, coke, or nuclear fuel for use in street and railroad transportation services.

Sections 9 and 10 prevent the elimination of the sales tax exemption and the creation of the sales tax refund from affecting county and municipal sales and use taxes.

Section 11 repeals the statutes that provide an insurance premium tax rate reduction for insurance companies maintaining a home office or a regional home office in the state. Section 11 also clarifies that, for purposes of the insurance premium tax, an "annuity plan" or an "annuity consideration" does not include a deposit-type contract that does not incorporate mortality or morbidity risks, such as a guaranteed investment or interest certificate, a supplementary contract without life contingencies, an annuity certain, a premium fund or other deposit fund, a dividend accumulation, a coupon accumulation, a lottery payout, or a structured settlement.

The earned income tax credit is equal to a percentage of the federal earned income tax credit. **Section 12** increases the percentage from 10% to 20% beginning in 2023. Section 12 also specifies that for income tax years commencing on or after January 1, 2020, taxpayers filing with an individual taxpayer identification number are eligible for the earned income tax credit.

Section 13 specifies that the state treasurer shall transfer the following amounts from the general fund to the state education fund created in section 17 (4) of article IX of the state constitution for the following fiscal years:

! \$150,000,000 for the fiscal year 2021-22;
! \$200,000,000 for the fiscal year 2022-23;
! \$200,000,000 for the fiscal year 2023-24; and
! \$200,000,000 for the fiscal year 2024-25.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** The short title of this act is the "Tax
3 Fairness Act".

4 **SECTION 2.** In Colorado Revised Statutes, 39-22-104, **add**
5 (3)(l), (3)(m), (3)(n), and (3)(o) as follows:

6 **39-22-104. Income tax imposed on individuals, estates, and**
7 **trusts - single rate - legislative declaration - definitions - repeal.**

8 (3) There shall be added to the federal taxable income:

9 (l) FOR INCOME TAX YEARS ENDING ON AND AFTER THE
10 ENACTMENT OF THE MARCH 2020 "CORONAVIRUS AID, RELIEF, AND
11 ECONOMIC SECURITY ACT", PUB. L. 116-136, REFERRED TO IN THIS
12 SECTION AS THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AND FOR
13 INCOME TAX YEARS BEGINNING ON AND AFTER THE ENACTMENT OF THE
14 "CARES ACT", BUT BEFORE JANUARY 1, 2021, AN AMOUNT EQUAL TO THE
15 DIFFERENCE BETWEEN A TAXPAYER'S NET OPERATING LOSS DEDUCTION AS
16 DETERMINED UNDER SECTION 172 (a) OF THE INTERNAL REVENUE CODE
17 BEFORE THE AMENDMENTS MADE BY SECTION 2303 OF THE "CARES ACT"
18 AND THE TAXPAYER'S NET OPERATING LOSS DEDUCTION AS DETERMINED
19 UNDER SECTION 172 (a) OF THE INTERNAL REVENUE CODE AFTER THE
20 AMENDMENTS MADE BY SECTION 2303 OF THE "CARES ACT".

21 (m) FOR INCOME TAX YEARS ENDING ON AND AFTER THE
22 ENACTMENT OF THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AND
23 FOR INCOME TAX YEARS BEGINNING ON AND AFTER THE ENACTMENT OF

1 THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AN AMOUNT EQUAL TO
2 A TAXPAYER'S EXCESS BUSINESS LOSS AS DETERMINED UNDER SECTION
3 461 (l) OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO THE
4 AMENDMENTS MADE BY SECTION 2304 OF THE "CARES ACT", BUT WITH
5 REGARD TO THE TECHNICAL AMENDMENT MADE BY SECTION 2304
6 (b)(2)(B) OF THE "CARES ACT".

7 (n) FOR INCOME TAX YEARS ENDING ON AND AFTER THE
8 ENACTMENT OF THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AND
9 FOR INCOME TAX YEARS BEGINNING ON AND AFTER THE ENACTMENT OF
10 THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AN AMOUNT EQUAL TO
11 THE AMOUNT IN EXCESS OF THE LIMITATION ON BUSINESS INTEREST UNDER
12 SECTION 163 (j) OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO
13 THE AMENDMENTS MADE BY SECTION 2306 OF THE "CARES ACT".

14 (o) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
15 1, 2021, AN AMOUNT EQUAL TO THE DEDUCTION ALLOWED UNDER SECTION
16 199A OF THE INTERNAL REVENUE CODE FOR A TAXPAYER WHO FILES A
17 SINGLE RETURN AND WHOSE ADJUSTED GROSS INCOME IS GREATER THAN
18 SEVENTY-FIVE THOUSAND DOLLARS, AND FOR TAXPAYERS WHO FILE A
19 JOINT RETURN AND WHOSE ADJUSTED GROSS INCOME IS GREATER THAN
20 ONE HUNDRED FIFTY THOUSAND DOLLARS; EXCEPT THAT THIS SUBSECTION
21 (3)(o) DOES NOT APPLY TO A TAXPAYER WHO FILES A SCHEDULE F ON
22 THEIR FEDERAL INCOME TAX RETURN.

23 **SECTION 3.** In Colorado Revised Statutes, 39-22-304, **add** (2)(i)
24 as follows:

25 **39-22-304. Net income of corporation - legislative declaration**
26 **- definitions - repeal.** (2) There shall be added to federal taxable income:

27 (i) FOR INCOME TAX YEARS ENDING ON AND AFTER THE

1 ENACTMENT OF THE MARCH 2020 "CORONAVIRUS AID, RELIEF, AND
2 ECONOMIC SECURITY ACT", PUB. L. 116-136, REFERRED TO IN THIS
3 SECTION AS THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AND FOR
4 INCOME TAX YEARS BEGINNING ON AND AFTER THE ENACTMENT OF THE
5 "CARES ACT", BUT BEFORE JANUARY 1, 2021, AN AMOUNT EQUAL TO THE
6 AMOUNT IN EXCESS OF THE LIMITATION ON BUSINESS INTEREST UNDER
7 SECTION 163 (j) OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO
8 THE AMENDMENTS MADE BY SECTION 2306 OF THE "CARES ACT".

9 **SECTION 4.** In Colorado Revised Statutes, 39-22-504, **amend**
10 (1); and **add** (7) as follows:

11 **39-22-504. Net operating losses.** (1) (a) A net operating loss
12 deduction shall be allowed in the same manner that it is allowed under the
13 internal revenue code except as otherwise provided in this section. The
14 amount of the net operating loss that may be carried forward and carried
15 back for Colorado income tax purposes shall be that portion of the federal
16 net operating loss allocated to Colorado under this ~~article~~ ARTICLE 22 in
17 the taxable year that the net operating loss is sustained.

18 (b) FOR LOSSES INCURRED AFTER DECEMBER 31, 2017, THE EIGHTY
19 PERCENT LIMITATION SET FORTH IN SECTION 172 (a)(2) OF THE INTERNAL
20 REVENUE CODE SHALL APPLY WITHOUT REGARD TO THE AMENDMENTS
21 MADE IN SECTION 2303 OF THE MARCH 2020 "CORONAVIRUS AID, RELIEF,
22 AND ECONOMIC SECURITY ACT", PUB. L. 116-136.

23 (7) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
24 SECTION, THE MAXIMUM AMOUNT OF NET OPERATING LOSS THAT A
25 CORPORATION MAY SUBTRACT FROM FEDERAL TAXABLE INCOME
26 PURSUANT TO SECTION 39-22-304 (3)(g) FOR A TAX YEAR COMMENCING
27 ON OR AFTER JANUARY 1, 2021, BUT BEFORE JANUARY 1, 2024, IS FOUR

1 HUNDRED THOUSAND DOLLARS.

2 (b) ALL NET OPERATING LOSSES ARISING IN TAXABLE YEARS
3 BEGINNING BEFORE JANUARY 1, 2018, MAY BE CARRIED FORWARD ONE
4 ADDITIONAL YEAR FOR EACH TAX YEAR THAT A CORPORATION IS
5 PROHIBITED PURSUANT TO SUBSECTION (7)(a) OF THIS SECTION FROM
6 SUBTRACTING A PORTION OF SUCH NET OPERATING LOSSES FROM THE
7 CORPORATION'S FEDERAL TAXABLE INCOME.

8 (c) A CORPORATION MAY ADD AN AMOUNT EQUAL TO THE AMOUNT
9 OF ALL NET OPERATING LOSSES THAT A CORPORATION IS PROHIBITED FROM
10 SUBTRACTING FROM FEDERAL TAXABLE INCOME PURSUANT TO
11 SUBSECTION (7)(a) OF THIS SECTION MULTIPLIED BY A RATE OF INTEREST
12 EQUAL TO THREE AND ONE-QUARTER PERCENT PER ANNUM FOR THE
13 PERIOD DURING WHICH SUCH NET OPERATING LOSSES ARE PROHIBITED TO
14 THE ALLOWABLE NET OPERATING LOSS THAT IS CARRIED FORWARD BY THE
15 CORPORATION. FOR THE PURPOSE OF SECTION 39-22-304 (3)(g), THAT
16 AMOUNT IS CONSIDERED NET OPERATING LOSS.

17 **SECTION 5.** In Colorado Revised Statutes, 39-22-518, **amend**
18 **(1); and add (9)** as follows:

19 **39-22-518. Tax modification for net capital gains - repeal.**

20 (1) For income tax years commencing on or after July 1, 1995, BUT
21 BEFORE JANUARY 1, 2021, a modification, in the form of a reduction of
22 income taxable by the state of Colorado, shall be allowed to any qualified
23 taxpayer for the amount of income attributable to qualifying gains
24 receiving capital treatment earned by the qualified taxpayer during the
25 taxable year and included in federal taxable income.

26 **(9) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2028.**

27 **SECTION 6.** In Colorado Revised Statutes, 39-26-102, **amend**

1 (21)(a) as follows:

2 **39-26-102. Definitions.** As used in this article 26, unless the
3 context otherwise requires:

4 (21) (a) (I) FOR SALES AND PURCHASES MADE BEFORE JANUARY 1,
5 2023, sales and purchases of electricity, coal, gas, fuel oil, steam, coke,
6 or nuclear fuel, for use in processing, manufacturing, mining, refining,
7 irrigation, construction, telegraph, telephone, and radio communication,
8 street and railroad transportation services, and all industrial uses, and
9 newsprint and printer's ink for use by publishers of newspapers and
10 commercial printers shall be deemed to be wholesale sales and shall be
11 exempt from taxation under this part 1.

12 (II) FOR SALES AND PURCHASES MADE ON AND AFTER JANUARY 1,
13 2023, SALES AND PURCHASES OF NEWSPRINT AND PRINTER'S INK FOR USE
14 BY PUBLISHERS OF NEWSPAPERS AND COMMERCIAL PRINTERS ARE DEEMED
15 TO BE WHOLESALE SALES AND ARE EXEMPT FROM TAXATION UNDER THIS
16 PART 1.

17 (III) SUBSECTION (21)(a)(I) OF THIS SECTION IS REPEALED,
18 EFFECTIVE JANUARY 1, 2028.

19 **SECTION 7.** In Colorado Revised Statutes, 39-26-705, **amend**
20 (1) as follows:

21 **39-26-705. Miscellaneous use tax exemptions - printers ink**
22 **and newsprint - manufactured goods.** (1) (a) (I) FOR SALES AND
23 PURCHASES MADE BEFORE JANUARY 1, 2023, the storage, use, or
24 consumption of printers ink and newsprint shall be exempt from taxation
25 under the provisions of part 2 of this ~~article~~ ARTICLE 26.

26 (II) THIS SUBSECTION (1)(a) IS REPEALED, EFFECTIVE JANUARY 1,
27 2028.

1 (b) FOR SALES AND PURCHASES MADE AFTER JANUARY 1, 2023,
2 THE STORAGE, USE, OR CONSUMPTION OF NEWSPRINT AND PRINTER'S INK
3 FOR USE BY PUBLISHERS OF NEWSPAPERS AND COMMERCIAL PRINTERS ARE
4 EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS
5 ARTICLE 26.

6 **SECTION 8.** In Colorado Revised Statutes, 39-26-715, **amend**
7 (2) introductory portion and (2)(b)(I) as follows:

8 **39-26-715. Fuel and oil - definitions - repeal.** (2) The following
9 are exempt from taxation under the provisions of ~~part 2 of this article~~ THIS
10 ARTICLE 26:

11 (b) (I) (A) FOR SALES AND PURCHASES MADE BEFORE JANUARY 1,
12 2023, the storage, use, or consumption of electricity, coal, coke, fuel oil,
13 steam, nuclear fuel, or gas for use in processing, manufacturing, mining,
14 refining, irrigation, building construction, telegraph, telephone, and radio
15 communication, street and railroad transportation services, and all
16 industrial uses.

17 (B) THIS SUBSECTION (2)(b)(I) IS REPEALED, EFFECTIVE JANUARY
18 1, 2028.

19 **SECTION 9.** In Colorado Revised Statutes, **add** 39-26-730 as
20 follows:

21 **39-26-730. Refund of state sales and use tax for certain types**
22 **of fuel - application requirements and procedures.** (1) FOR SALES AND
23 PURCHASES MADE ON AND AFTER JANUARY 1, 2023, A PURCHASER IS
24 ALLOWED TO CLAIM A REFUND, NOT TO EXCEED ONE THOUSAND DOLLARS
25 PER MONTH, OF ALL STATE SALES AND USE TAX PAID BY THE PURCHASER,
26 PURSUANT TO PARTS 1 AND 2 OF THIS ARTICLE 26, ON THE SALE, STORAGE,
27 USE, OR CONSUMPTION OF ELECTRICITY, COAL, GAS, FUEL OIL, STEAM,

1 COKE, OR NUCLEAR FUEL, FOR USE IN PROCESSING, MANUFACTURING,
2 MINING, REFINING, IRRIGATION, CONSTRUCTION, TELEGRAPH, TELEPHONE,
3 AND RADIO COMMUNICATION, AND ALL INDUSTRIAL USES; EXCEPT THAT
4 THE ONE THOUSAND DOLLAR PER MONTH LIMIT DOES NOT APPLY TO THE
5 SALE, STORAGE, USE, OR CONSUMPTION OF THE FOLLOWING:

- 6 (a) DIESEL FUEL PURCHASED FOR OFF-ROAD USE;
- 7 (b) ELECTRICITY, COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR
8 FUEL PURCHASED FOR AGRICULTURAL PURPOSES;
- 9 (c) COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL FOR USE
10 BY A UTILITY COMPANY TO GENERATE ELECTRICITY FOR RETAIL OR
11 WHOLESALE SALE; AND
- 12 (d) ELECTRICITY, COAL, GAS, FUEL OIL, STEAM, COKE, OR
13 NUCLEAR FUEL FOR USE IN STREET AND RAILROAD TRANSPORTATION
14 SERVICES.

15 (2) TO CLAIM THE REFUND ALLOWED BY SUBSECTION (1) OF THIS
16 SECTION, A PURCHASER SHALL SUBMIT A REFUND APPLICATION TO THE
17 DEPARTMENT OF REVENUE ON A FORM PROVIDED BY THE DEPARTMENT.
18 THE DEPARTMENT SHALL ESTABLISH BY RULE ALL NECESSARY
19 PROCEDURES FOR CLAIMING THE REFUND.

20 (3) NOTHING IN THIS SECTION MAY BE CONSTRUED TO LIMIT THE
21 AVAILABILITY OF ANY OTHER EXEMPTION ALLOWED IN THIS ARTICLE 26.

22 **SECTION 10.** In Colorado Revised Statutes, 39-26-127, **amend**
23 (1) introductory portion; and **add** (1)(f) as follows:

24 **39-26-127. Legislation modifying the state sales tax base - no**
25 **impact on local government sales tax bases - no expansion of local**
26 **authority to levy sales tax.** (1) Notwithstanding the provisions of
27 section 29-2-105 (1)(d), ~~C.R.S.~~, any provision of title 32, ~~C.R.S.~~, or any

1 other provision of law, and except as set forth in subsection (3) of this
2 section, the levying of sales tax on, exemption from sales tax for, or local
3 option to levy sales tax on or provide an exemption from sales tax for any
4 tangible personal property or services under the sales tax ordinance or
5 resolution of any county, municipality, special district, authority, or other
6 local government or political subdivision of the state shall not be affected
7 in any way by the elimination, suspension, or modification of any sales
8 tax exemption or any other legislative modification of the state sales tax
9 base resulting from the enactment of any of the following bills:

10 (f) SECTIONS 39-26-102 (21)(a), 39-26-715 (2) INTRODUCTORY
11 PORTION AND (2)(b)(I), AND 39-26-730 AS AMENDED OR ENACTED BY
12 HOUSE BILL 20-1420, ENACTED IN 2020.

13 **SECTION 11.** In Colorado Revised Statutes, 39-26-212, **amend**
14 (1) introductory portion; and **add** (1)(f) as follows:

15 **39-26-212. Legislation modifying the state use tax base - no**
16 **impact on local government use tax bases - no expansion of local**
17 **authority to levy use tax.** (1) Notwithstanding the provisions of section
18 29-2-105 (1)(d), ~~C.R.S.~~, any provision of title 32, ~~C.R.S.~~, or any other
19 provision of law, and except as set forth in subsection (3) of this section,
20 the levying of use tax on, exemption from use tax for, or local option to
21 levy use tax on or provide an exemption from use tax for any tangible
22 personal property or services under the use tax ordinance or resolution of
23 any county, municipality, special district, authority, or other local
24 government or political subdivision of the state shall not be affected in
25 any way by the elimination, suspension, or modification of any use tax
26 exemption or any other legislative modification of the state use tax base
27 resulting from the enactment of any of the following bills:

1 (f) SECTIONS 39-26-102 (21)(a), 39-26-715 (2) INTRODUCTORY
2 PORTION AND (2)(b)(I), AND 39-26-730 AS AMENDED OR ENACTED BY
3 HOUSE BILL 20-1420, ENACTED IN 2020.

4 **SECTION 12.** In Colorado Revised Statutes, 10-3-209, **amend**
5 (1)(b)(I)(B), (1)(b)(III), and (1)(d)(IV); and **repeal** (1)(b)(II) as follows:

6 **10-3-209. Tax on premiums collected - exemptions - penalties**
7 **- repeal.** (1) (b) (I) The rate of tax shall be as follows:

8 (B) For companies maintaining a home office or a regional home
9 office in this state, the rate of tax on the gross amount FOR TAXES DUE
10 AND PAYABLE BEFORE MARCH 1, 2021, shall be one percent.

11 ~~(II) For purposes of this paragraph (b), any company is deemed to~~
12 ~~maintain a home office or regional home office in this state if such~~
13 ~~company either:~~

14 ~~(A) Substantially performs in this state the following functions,~~
15 ~~or substantially equivalent functions, for the company for each state in~~
16 ~~which the company is licensed, or for three or more of such states:~~
17 ~~Actuarial, medical, legal, approval or rejection of applications, issuance~~
18 ~~of policies, information and service, advertising and publications, public~~
19 ~~relations, hiring, testing, and training of sales and service forces; or~~

20 ~~(B) Maintains significant direct insurance operations in this state~~
21 ~~that are supported by functional operations which are both necessary for~~
22 ~~and pertinent to a line or lines of business written by the company in this~~
23 ~~state.~~

24 (III) (A) Any company desiring to qualify an office in this state as
25 a home or regional home office shall make application for qualification
26 to the commissioner on forms prescribed by the commissioner and shall
27 submit proof that it is operating a home or a regional home office in this

1 state. Applications for companies that were not approved in the
2 immediate preceding year shall be received by the commissioner by
3 December 31 of the year immediately preceding the year for which the
4 application for qualification is being made. Applications for companies
5 that were approved in the immediate preceding year shall be received by
6 the commissioner by March 1 of the year for which qualification is being
7 made. Applications for companies that were approved in the immediate
8 preceding year received through March 31 shall pay a late charge of one
9 hundred dollars per day for each day after March 1 that any such
10 application is received by the commissioner. Applications received after
11 March 31 shall be denied. The provisions of subsection (2) of this section
12 shall not apply to companies maintaining a home office or regional home
13 office in this state.

14 (B) THIS SUBSECTION (1)(b)(III) IS REPEALED, EFFECTIVE MARCH
15 1, 2021.

16 (d) (IV) (A) Except to the extent provided in SUBSECTION
17 (1)(d)(IV)(B) AND subsection (2) of this section, the tax imposed by this
18 section shall not apply to premiums collected or contracted for after
19 December 31, 1968, on policies or contracts issued in connection with a
20 pension, profit sharing, or annuity plan established by an employer for
21 employees if contributions by such employer thereunder are deductible by
22 such employer in determining such employer's net income as defined in
23 section 39-22-304, ~~C.R.S.~~, and shall not apply to premiums collected or
24 contracted for after December 31, 1968, on policies or contracts
25 purchased for an employee by an employer if such employer is exempt
26 under section 39-22-112, ~~C.R.S.~~, from the tax imposed by article 22 of
27 title 39, ~~C.R.S.~~, or is a state, a political subdivision of a state, or an

1 agency or instrumentality of a state or political subdivision of a state.
2 Except to the extent provided in subsection (2) of this section, the tax
3 imposed by this section shall not apply to annuity considerations collected
4 or contracted for after December 31, 1976.

5 (B) FOR PREMIUMS COLLECTED ON AND AFTER MARCH 1, 2020, AN
6 "ANNUITY PLAN" OR AN "ANNUITY CONSIDERATION" DOES NOT INCLUDE
7 A DEPOSIT-TYPE CONTRACT THAT DOES NOT INCORPORATE MORTALITY OR
8 MORBIDITY RISKS, SUCH AS A GUARANTEED INVESTMENT OR INTEREST
9 CERTIFICATE, A SUPPLEMENTARY CONTRACT WITHOUT LIFE
10 CONTINGENCIES, AN ANNUITY CERTAIN, A PREMIUM FUND OR OTHER
11 DEPOSIT FUND, A DIVIDEND ACCUMULATION, A COUPON ACCUMULATION,
12 A LOTTERY PAYOUT, OR A STRUCTURED SETTLEMENT.

13 **SECTION 13.** In Colorado Revised Statutes, 39-22-123.5,
14 **amend** (1)(h) and (2); **repeal** (3); and **add** (2.5) as follows:

15 **39-22-123.5. Earned income tax credit - not a refund of excess**
16 **state revenues - trigger - legislative declaration - definition.** (1) The
17 general assembly hereby finds and declares that:

18 (h) Now, therefore, it is the intent of the general assembly to
19 establish a permanent and refundable state earned income tax credit for
20 eligible Colorado taxpayers. ~~which is equal to ten percent of the federal~~
21 ~~earned income tax credit.~~ The intended purpose of this credit is to help
22 individuals and families achieve greater financial security and to help
23 Colorado's economy.

24 (2) (a) For an income tax year ~~specified in subsection (3) of this~~
25 ~~section~~ COMMENCING PRIOR TO JANUARY 1, 2023, a resident individual
26 who claims an earned income tax credit on the individual's federal tax
27 return is allowed an earned income tax credit against the taxes due under

1 this ~~article~~ ARTICLE 22 that is equal to ten percent of the federal credit that
2 the resident individual claimed on his or her federal tax return for the
3 same tax year.

4 (b) FOR AN INCOME TAX YEAR COMMENCING ON OR AFTER
5 JANUARY 1, 2023, A RESIDENT INDIVIDUAL WHO CLAIMS AN EARNED
6 INCOME TAX CREDIT ON THE INDIVIDUAL'S FEDERAL TAX RETURN IS
7 ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE
8 UNDER THIS ARTICLE 22 THAT IS EQUAL TO TWENTY PERCENT OF THE
9 FEDERAL CREDIT THAT THE RESIDENT INDIVIDUAL CLAIMED ON HIS OR HER
10 FEDERAL TAX RETURN FOR THE SAME TAX YEAR.

11 (2.5) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
12 JANUARY 1, 2020, BUT BEFORE JANUARY 1, 2023, A RESIDENT INDIVIDUAL
13 IS ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE
14 UNDER THIS ARTICLE 22 THAT IS EQUAL TO TEN PERCENT OF THE FEDERAL
15 CREDIT THAT THE RESIDENT INDIVIDUAL WOULD HAVE BEEN ALLOWED,
16 BUT FOR THE FACT THAT THE RESIDENT INDIVIDUAL, THE RESIDENT
17 INDIVIDUAL'S SPOUSE, OR ONE OR MORE OF THE RESIDENT INDIVIDUAL'S
18 DEPENDENTS DO NOT HAVE A SOCIAL SECURITY NUMBER THAT IS VALID
19 FOR EMPLOYMENT.

20 (b) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
21 1, 2023, A RESIDENT INDIVIDUAL IS ALLOWED AN EARNED INCOME TAX
22 CREDIT AGAINST THE TAXES DUE UNDER THIS ARTICLE 22 THAT IS EQUAL
23 TO TWENTY PERCENT OF THE FEDERAL CREDIT THAT THE TAXPAYER
24 WOULD HAVE BEEN ALLOWED, BUT FOR THE FACT THAT THE RESIDENT
25 INDIVIDUAL, THE RESIDENT INDIVIDUAL'S SPOUSE, OR ONE OR MORE OF THE
26 RESIDENT INDIVIDUAL'S DEPENDENTS DO NOT HAVE A SOCIAL SECURITY
27 NUMBER THAT IS VALID FOR EMPLOYMENT.

1 (c) FOR PURPOSES OF THIS SUBSECTION (2.5), A "RESIDENT
2 INDIVIDUAL" INCLUDES A TAXPAYER FILING WITH AN INDIVIDUAL
3 TAXPAYER IDENTIFICATION NUMBER.

4 (3) ~~If a credit is allowed under section 39-22-123 for an income~~
5 ~~tax year commencing on or after January 1, 2013, the credit allowed~~
6 ~~under this section may be claimed for any income tax year beginning with~~
7 ~~the income tax year after the income tax year that the credit is allowed~~
8 ~~under section 39-22-123.~~

9 **SECTION 14.** In Colorado Revised Statutes, 24-75-220, **add** (6)
10 as follows:

11 **24-75-220. State education fund - transfers - surplus -**
12 **legislative declaration.** (6) (a) ON **MARCH 1, 2021**, THE STATE
13 TREASURER SHALL TRANSFER ONE HUNDRED **SEVENTY-FIVE** MILLION
14 DOLLARS FROM THE GENERAL FUND TO THE STATE EDUCATION FUND
15 CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION
16 FOR THE FISCAL YEAR 2021-22.

17 (b) ON **MARCH 1, 2022**, THE STATE TREASURER SHALL TRANSFER
18 TWO HUNDRED **SEVENTY-FIVE** MILLION DOLLARS FROM THE GENERAL FUND
19 TO THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE
20 IX OF THE STATE CONSTITUTION FOR THE FISCAL YEAR 2022-23.

21 (c) ON **MARCH 1, 2023**, THE STATE TREASURER SHALL TRANSFER
22 TWO HUNDRED **SEVENTY-FIVE** MILLION DOLLARS FROM THE GENERAL FUND
23 TO THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE
24 IX OF THE STATE CONSTITUTION FOR THE FISCAL YEAR 2023-24.

25 (d) ON **MARCH 1, 2024**, THE STATE TREASURER SHALL TRANSFER
26 TWO HUNDRED **SEVENTY-FIVE** MILLION DOLLARS FROM THE GENERAL FUND
27 TO THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE

1 IX OF THE STATE CONSTITUTION FOR THE FISCAL YEAR 2024-25.

2 **SECTION 15. Appropriation.** (1) For the 2020-21 state fiscal
3 year, \$702,170 is appropriated to the department of revenue. This
4 appropriation is from the general fund. To implement this act, the
5 department may use this appropriation as follows:

6 (a) \$277,811 for use by the taxation and compliance division for
7 personal services, which amount is based on an assumption that the
8 division will require an additional 4.8 FTE;

9 (b) \$39,778 for use by the taxation and compliance division for
10 operating expenses;

11 (c) \$311,529 for use by the taxpayer service division for personal
12 services, which amount is based on an assumption that the division will
13 require an additional 6.1 FTE;

14 (d) \$50,552 for use by the taxpayer service division for operating
15 expenses; and

16 (e) \$22,500 for tax administration IT system (GenTax) support.

17 **SECTION 16. Effective date.** This act takes effect upon passage;
18 except that section 10-3-209 (1)(b)(II), Colorado Revised Statutes, as
19 repealed in section 12 of this act, takes effect March 1, 2021.

20 **SECTION 17. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, or safety.